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From: [REDACTED]

Sent: Saturday, March 6, 2021 13:14:13

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: Closing Package -

This is a Westbrook case. As you know, restitution may not normally be imposed as an independent part of the sentence (as opposed to a condition of supervised release) for a Title 26 crime unless provided for in a plea agreement. In this case, the defendant was sentenced to pay restitution for two Title 26 crimes, crimes for which he was convicted after a plea of not guilty (so that there is no plea agreement), and the restitution was referred to several times in the conditions of supervised release. We therefore conclude that restitution was imposed as a condition of supervised release.

In rare cases, a district court will impose restitution as an independent part of the sentence, even though it isn't supposed to, and in such a case we will follow the final judgment of the court. However, we presume that the court acts within the scope of its power and won't conclude otherwise without clear evidence. In this case, restitution was imposed as a condition of supervised release, one provision of which requires the defendant to make installment payments commencing upon release from prison. While restitution is listed on the sheet of criminal monetary penalties, there is no clear indication that the court intended to impose restitution as an independent part of the sentence. In the absence of a clear indication that the district court intended to impose restitution as an independent part of the sentence, we conclude that restitution in this case was imposed solely as a condition of supervised release.

Please call if you have any further questions about this matter.